

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

IVONNE MENDOZA,

Plaintiff,

v.

MIDLAND CREDIT MANAGEMENT, INC.,

Defendant.

Case No: 3:20-cv-00024-PRM

PLAINTIFF’S RESPONSE TO ORDER TO SHOW CAUSE

NOW comes Nathan C. Volheim (“Volheim”), counsel for IVONNE MENDOZA (“Plaintiff”), hereby submitting this following response to this Honorable Court’s Order to Show Cause, and in support thereof states as follows:

1. As a preliminary matter, with all that is going on in the world right now related to the tragic circumstances surrounding COVID-19, the last thing this Honorable Court should be compelled to do is issue a Show Cause Order over a clear misreading of a prior directive. However, due to a bungle by the undersigned, that is precisely what was necessary. It is with sincere regret that this Honorable Court has to waste another moment reading forward.

2. On March 12, 2020, this Honorable Court entered an Order for Plaintiff’s counsel and Defendant’s counsel to retain local counsel in this action on or before April 13, 2020. The Order clearly stated, “that the parties should each retain a member of the Bar of this Court, who maintains an office within the El Paso Division of the Western District of Texas, as co- counsel with authority to act as attorney of record for all purposes.” [Dkt No.10].

3. Plaintiff’s counsel neglected to comprehend the part of the Order in which the Court required the local counsel to “maintain an office within the El Paso Division of the Western District

of Texas “ and thought it was sufficient to retain local counsel who resides in the Western District of Texas.”¹

4. On April 13, 2019, attempting to be in timely compliance with this Honorable Court’s Order, Plaintiff’s counsel retained James Meyrat, who is a member of the Bar for the Western District of Texas, to act as his co-counsel. While James Meyrat does reside in the Western District of Texas, he does not reside in the El Paso Division.

5. Upon further review of James Meyrat’s office location, this Honorable Court rightfully noticed that it did not reside within the El Paso Division.

6. On April 17, 2020, this Honorable Court entered a Show Cause Order as to Plaintiff’s lack of compliance with its previous Order. [Dkt No.18].

7. Immediately upon reviewing this Honorable Court’s Show Cause Order, Volheim realized his blunder, dropped everything², and went about addressing the error.

8. Within hours of becoming aware of the mistake, Plaintiff’s counsel retained Timothy V. Daniel to act as his co-counsel in this matter. Timothy V. Daniel is a member of the bar for the Western District of Texas and maintains an office within the El Paso Division.³ Mr. Daniel filed his appearance in this matter on April 17, 2020. [Dkt No. 19].

9. Beyond securing local counsel, Volheim thought most appropriate to draft and file this response on a Friday evening as further punishment for the error. Plaintiff’s counsel will not be billing any of the time or cost associated with correcting his mistake.

10. Volheim sincerely apologizes for misreading this Honorable Court’s Order. Plaintiff’s counsel understands that his mistake has caused this Honorable Court to unnecessarily

¹ In no way aiming to mitigate Volheim’s miscomprehension, he regularly is required to retain local counsel on cases filed for consumers in the Northern District of Texas. In many of those circumstances, the Court only requires that local counsel reside within the Northern District of Texas, as opposed to the individual division.

² Plaintiff’s counsel literally dropped his computer keyboard upon realizing his mistake.

³ 1411 Montana, El Paso, Texas 79902.

spend already strained resources addressing a simple directive. Although the act was one of omission, correcting it has been Volheim's top priority.

WHEREFORE, IVONNE MENDOZA's counsel, Nathan C Volheim, sorrowfully and sincerely request that this Honorable Court mercifully terminate the Show Cause Order without any further action.

DATED: April 17, 2020

Respectfully submitted,

/s/ Nathan C. Volheim

Nathan C. Volheim

Admitted in the Western District of Texas

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CERTIFICATE OF SERVICE

I, Nathan C. Volheim, an attorney, hereby certify that on April 17, 2020, the foregoing **PLAINTIFF'S RESPONSE TO RULE TO SHOW CAUSE** was filed with the Clerk of the Court of the United States District Court for the Western District of Texas by using the CM/ECF system.

/s/ Nathan C. Volheim

Nathan C. Volheim, Esq. 6302103